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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/617,239	07/14/2000	John Burwell	2549-098-27	5372

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Steven B Kelber
Piper Marbury Rudnick & Wolfe LLP
1200 Nineteenth Street NW
Washington, DC 20036-2412

EXAMINER

MEREK, JOSEPH C

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 12/29/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/617,239

Applicant(s)

BURWELL ET AL.

Examiner

Joseph C. Merek

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2, 4-8, 13, 19 and 21-35 is/are pending in the application.
- 4a) Of the above claim(s) 24-35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2, 4-8, 13, 19, and 21-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 13, 19, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mastandrea et al (US 5,295,391) Lankston (US 4,335,757) in view of Dietrich (US 5,582,318). Regarding claim 21, Mastandrea et al teaches a sealing lid but does not teach the dome. Lankston as seen in Fig. 2, teaches a temporary dome cap. It would have been obvious to employ the dome of Lankston in the cover of Mastandrea et al to provide more volume or an alternative shape for the cover. The modified cover of Mastandrea et al does not teach the fillet non-adhering or the sealing band over the fillet. Dietrich as seen in Figs. 1-20, teaches a sealing band over a fillet 3 that is non-adhered for securing a temporary closure. It would have been obvious to employ the band of Dietrich in the cap of Mastandrea et al to provide a way to remove the cap without cutting or to provide a simple way to seal the temporary cap. The fillet in the modified cap of Mastandrea et al is the gasket or o-ring 3 as seen in Figs. 1-25. The o-ring is non-adhering. Regarding claim 2, see Fig. 1 of Dietrich where the dome or closure has a flanged end sized to accept the riser and wherein the sealing dome is positioned with the flanged end over a top end of the riser. Regarding claim 13, the sealing dome has a circular circumferential shape. Regarding claim 19, the main body is capable of storing wastewater.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mastandrea et al in view of Lankston and Dietrich as applied to claim 21 above, and further in view of Buckley (US 2,893,590). Regarding claim 22, the modified cap of Mastandrea et al does not teach the fillet is putty. Buckley teaches that putty can be used for a gasket. It would have been obvious to employ the putty of Buckley in the cap of Mastandrea et al to provide an alternative material for the fillet or gasket.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mastandrea et al in view of Lankston and Dietrich as applied to claim 21 above, and further in view of Poquet et al (US 6,530,575). Regarding claim 22, the modified cap of Mastandrea et al does not teach the fillet is cardboard. Poquet et al teaches that cardboard can be used for a gasket. It would have been obvious to employ the cardboard of Poquet et al in the cap of Mastandrea et al to provide an alternative material for the fillet or gasket.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mastandrea et al in view of Lankston and Dietrich as applied to claim 2 above, and further in view of Johnston et al (US 3,920,254). Regarding claim 4 and 5, the modified cap of Mastandrea et al does not teach the third surface or the approximately forty five degrees. Johnston et al as seen in Fig. 3, teaches a seal with a third surface that is approximately 45 degrees. It would have been obvious to employ the seal of Johnston et al in the modified cap of Mastandrea et al to provide a better seal.

Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mastandrea et al in view of Lankston and Dietrich as applied to claim 21 above, and

further in view of Allen (US 4,112,644). Regarding claims 6-8, the modified tank and cap of Mastandrea et al does not teach the fiberglass in the dome, the riser or the sealing band. Allen teaches a fiberglass tank with a fiberglass-sealing band. It would have been obvious to employ the fiberglass of Allen in the modified tank of Mastandrea et al to provide a durable plastic material. Moreover, it would have been obvious to employ fiberglass in the tank of Mastandrea et al since it is a proven material for underground tanks.

Response to Arguments

Applicant's arguments with respect to claims 2, 4-8, 13, 19, 21-23 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tonchen, Andre et al, Twerdochlib, Blackwell, and Blackwell et al are all cited for teaching sealing bands.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph C. Merek whose telephone number is (703) 305-0644. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young can be reached on (703) 308-2572. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3579.

Application/Control Number: 09/617,239
Art Unit: 3727

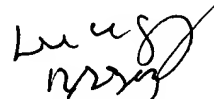
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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



JCM

December 15, 2003



LEE YOUNG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700